IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 20713 of 2006
Date of Decision: 08.01.2007

Mr. Subir Kumer Dey and others

.....Petitioners through
Mr. D.K.Bhatti, Advocate

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE VIJENDER JAIN,
CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJIVE BHALLA

1. **Whether Reporters of Local Newspapers may be allowed to see the judgment ?**
2. **To be referred to the Reporters or not ?**
3. **Whether the judgment should be reported in the Digest ?**

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Vijender Jain, Chief Justice (Oral)

Petitioners by this writ petition have impugned notification No. CCP (NCR) DDP (G)/2006/1697 dated 11.7.2006 issued under Sub Section (4) of Section 5 of the Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963 (41 of 1963).

Pursuant to the aforementioned notification, the State of Haryana published a draft development plan 2021 AD for Gurgaon-Manesar Urban Complex, alongwith restrictions and conditions enumerated in Annexures A and B annexed there with, to be made applicable to the controlled areas specified in Annexure-B. Objections or suggestions were invited from any person, in writing with respect of the plan, before the expiry of the period of 30 days from the date of publication of the notification by the Haryana Government. These objections were to be filed before the Director, Town and Country Planning, Haryana.

Petitioners inter-alia contend that the road which is proposed to be built, pursuant to the said draft notification,would dislocate the petitioners. Petitioners have placed reliance on a communication sent by one Mr.M.P.Bidlan, the then Deputy Commissioner, Gurgoan on 24.8.1994 and on the basis of the said communication contend before us that no notice under the Land Acquisition Act pertaining to this land was issued and as the land was not a part of any town planning scheme, the draft notification be quashed.

We have asked the petitioners as to how agricultural land could be converted to residential use as from a perusal of the sale-deed at page 28 of the paper-book, it is manifesty clear and is admitted by the petitioners that they purchased agricultural land bearing Killa No. 49//16/1 and 15/10 situated in the revenue estate of village Chauma, Tehsil and District Gurgoan and constructed houses thereon.

Counsel for the petitioners was unable to refer to any permission granted under Punjab Scheduled Roads and Controlled Areas

Restriction of Unregulated Development Act, 1963 or any licence granted under the Haryana Development and Regulation of Urban Areas Act, 1975 for the purpose of change of land use or for setting up of a colony. Reliance upon a communication of the Deputy Commissioner dated 24.8.1994 does not aid the petitioners. This communication, dated 24.8.1994 merely furnishes information that the land referred to in the communication, was not subject matter of any scheme of acquisition.

Another document relied upon is a Khasra Girdwari entry appended to the writ petition as Annexure P2 at page 31. This entry refers to the quality of the land as Gair Mumkin. From the afore mentioned it is sought to be urged that as the Khasra Girdwari, reflects the petitioners as owners in possession, and the nature of the land as 'Gair Mumkin', the land could not be made subject matter of the Master Plan for the purpose of a road. Reference to the Khasra Girdwari is entirely irrelevant, as admittedly, the petitioners purchased the agricultural land and without obtaining any permission from any authority raised unauthorised dwelling units.

Another contention that the Patwari issued a certificate or the Sub-Registrar issued a Non-Encumbrance Certificate, does not support the case. A Non-Encumbrance Certificate merely certifies the land in question or the property in dispute has been encumbered or not. The status of such property or land cannot be ascertained from such certificate or report. It is a sorry state of affairs that throughout the States of Haryana and Punjab, agricultural land has been put to residential use. If for proper development and creation of infrastructure, the State requires roads and other things, protection cannot be granted to the petitioners who have no legal or vested

right and have converted the land in complete disregard to the provisions of the existing Laws. Even otherwise all that has been notified is a draft plan.

Accordingly, there is no merit in this petition and the same is dismissed.

(VIJENDER JAIN)
CHIEF JUSTICE

(RAJIVE BHALLA)
JUDGE

8.1.2007
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